

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2531 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
Nos 1 to 5 No.

SITARAM BINDHADIN

Versus

COMMISSIONER OF LABOUR

Appearance:

MR.RD RAVAL FOR MR KR KOSHTI for Petitioners
MR KN SHASTRI FOR MR DA BAMBHANIA for Respondents
No. 1 and 2.
MR KM PATEL for Respondent No. 3
MR RD DAVE for Respondent No. 4 - Ramji
Ramsinhasan Bharti, new contractor who has been
impleaded as respondent no.4 only today on his
application being Civil Application No.4649 of 1997.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 09/05/97

ORAL JUDGEMENT

Rule.

Mr.K.N.Patel, Mr.K.N.Shastri for Mr.D.A.Bambhania

and Mr.R.D.Dave waive service of the Rule.

There are 31 petitioners in this case who are employed with the previous contractor of Respondent No.3Mahavir Rolling Mil Ltd. Mr.R.D.Dave who has appeared on behalf of the newly appointed contractor i.e. respondent No.4 has categorically stated that out of these 31 petitioners his client is prepared to continue 29 employees as such including son of the previous contractor viz. Rajesh Shyamlal. It has been further stated by Mr.Dave that so far as the petitioner No.31 Rajesh Shaymlal is concerned who is son of the previous contractor shall be continued in employment on the salary at par with the other employees but not at the salary which was being paid to him by the previous contractor who was his father. Rest of the employees i.e. petitioner nos. 1, 2, 4 to 27, 29 and 30 shall be continued in employment at the same rate of salary which was being paid to them by the previous contractor. Thus the grievance of the petitioners no.1,2, 4 to 27, 29 and 30 stands redressed and no orders are required to be passed with regard to these petitioners. Mr.Raval has submitted that petitioner No.31 Rajesh Shyamlal i.e. son of the previous contractor is prepared to join at same rate of salary which will be paid to the other similarly situated employees.

So far as petitioner No.3 and petitioner No.28 i.e. Baban Chandradip Varma and Ramshirman Khelavan are concerned it is staed by Mr.R.D.Dave that they were working as Fireman and Supervisor and he wants to keep the persons of his confidence on the post of Fireman and Supervisor. He has also pointed out that Ramshirman Khelavan was his competitor for this very contract. In the facts of this case, these two petitioners viz. Baban Chandradip Varma and Ramshiraman Khelavan may avail alternative remedy available to them in accordance with law. Mr.R.D.Raval submits that it may be recorded that he still contests for petitioners no. 3 and 28 i.e. Fireman and Supervisor. In the facts and circumstances of this case, I find that the approach adopted as stated by Mr.R.D.Dave is not reasonable and therefore while no dorders are required to be passed with regard to the petitioners except petitioners no.3 and 28, it is ordered for these two petitioners i.e. Baban Chandradip Varma and Ramshiraman Khelavan that they may seek any other alternative remedy available to them in the facts and circumstances of this case, where their grievances which are being raised for them may be effectively adjudicated.

For the reasons as aforesaid while no forther

orders are necessary with regard to the petitioners except petitioners no. 3 and 28 who are relegated to the alternative remedy, it is ordered that if any application for abolition of contract labour and seeking reference for regularisation in service is pending with the concerned authority moved on behalf of the petitioners, same shall be decided in accordance with law by the concerned authorities within a period of three months from the date certified copy of this order is served upon the concerned authority. Despite this order, if any of the petitioners whom respondent No.4 is prepared to continue in service does not report for duty immediately within week's time from today he will be doing so at his own peril. This Special Civil Application is decided and disposed of in the terms as aforesaid and the Rule is made absolute in the terms as aforesaid. No order as to costs.
